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DOC: A 504750

Recorded
MAY 24, 2004 AT 08:00AM

Signed: 

DEPUTY

JEAN M. DANKERS
GOODHUE COUNTY RECORDER

Fee Amount: \$21.00



**SIGN EASEMENT, STORMWATER DRAINAGE EASEMENT, AND
MAINTENANCE AGREEMENT**

THIS SIGN EASEMENT, STORMWATER DRAINAGE EASEMENT, AND MAINTENANCE AGREEMENT, (hereinafter referred to as "Agreement"), is made this 21 day of MAY, 2004, by and between the Red Wing Port Authority, a Development Agency, a public body corporate and politic (hereinafter referred to as the "Port Authority"), with offices located 419 Bush Street, Red Wing, Minnesota 55066, Menard, Inc. (hereinafter referred to as "Menard"), a Wisconsin corporation, with offices located at 4777 Menard Drive, Eau Claire, Wisconsin, 54703, and the City of Red Wing, a Minnesota municipal corporation (hereinafter referred to as the "City"), with offices located at 419 Bush Street, Red Wing, Minnesota 55066.

RECITALS

WHEREAS, Menard is the owner of a parcel of land, located in the City of Red Wing, County of Goodhue, State of Minnesota, more particularly described on the attached Exhibit A (hereinafter referred to as the "Menard Parcel");

WHEREAS, Port Authority is the owner of certain parcel of land located in the City of Red Wing, County of Goodhue, State of Minnesota, more particularly described on the attached Exhibit B (hereinafter referred to as the "Port Authority Parcel");

WHEREAS, City is the owner of certain parcel of land located in City of Red Wing, County of Goodhue, State of Minnesota, more particularly described on the attached Exhibit C (hereinafter referred to as the "City Parcel");

WHEREAS, Menard intends to construct a Menards Home Improvement Center on the Menard Parcel;

WHEREAS, a stormwater detention pond ("Pond") has been constructed on the City Parcel; and

WHEREAS, Menard, Port Authority, and the City desire to set forth their agreements regarding stormwater run-off from the Menard Parcel, improvements to the Pond, maintenance of the Pond, and the construction of the monument sign for the Menard Parcel on the City Parcel.

NOW THEREFORE, in consideration of ten dollars, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Definitions. As used in this Agreement, the following terms have the following definitions:

- 1.1 Benefited Property: The Menard Parcel.

- 1.2 Owner: All present and future owners of legal or equitable title to all or any portion of the Benefited Property and their respective successors and assigns, each of whom is an "Owner".

2. Improvements of the Pond and the City Parcel. Menard agrees to construct all improvements to the Pond necessary for the pond to accommodate all stormwater run-off from the Menard Parcel and all stormwater the pond currently accommodates. This shall include design (to be reviewed and approved by the City of Red Wing) and construction (including the installation of all necessary culverts/pipes). City hereby grants Menard the easement and right to make said improvements. The improvements will be constructed in conjunction with the development of the Menard Parcel.

3. Grant of Drainage Easements. City hereby grants and conveys to Menard a non-exclusive perpetual easement on, over, under, and through the City Parcel, for the purpose of using the Pond, to discharge and store surface storm water drainage and/or runoff from the Menard Parcel. City hereby grants and conveys to Menard a non-exclusive perpetual easement for the purpose of discharging surface stormwater from the Menard Parcel through the culverts located on the City Parcel, or installed pursuant to this Agreement on the City Parcel. The City and the Port Authority retain the right to alter the pond to accommodate drainage of other parcels of land in Med-Tech Park Subdivision, provided the alteration does not materially or adversely affect the easement rights granted hereunder.

4. Grant of Sign Easement. City hereby grants and conveys to Menard a non-exclusive perpetual easement on, over, under, and through that portion of the City Parcel described on the attached Exhibit D, for the purpose of constructing, repairing, replacing, and maintaining the monument sign for the Menard Parcel as depicted on Exhibit D, including the right of ingress and egress by persons, material and equipment on, over, and across the City Parcel. City and Port Authority hereby agree not to interfere with the easement rights granted herein.

5. Maintenance. The City shall perform all necessary and appropriate maintenance and repairs to the Pond and all associated improvements excluding culverts and pipes installed by Menard hereinafter located on the City Parcel. All culverts and pipes installed by Menard shall be maintained by Menard. City hereby grants and conveys to Menard a non-exclusive perpetual easement on, over, under, and through the City Parcel, for the purpose of maintaining, repairing, installing, and replacing all culverts and pipes installed by Menard located on the City Parcel.

6. Legal Effect. Each of the easements and rights created by this Agreement are perpetual and are appurtenant to the respective properties, and may not be transferred, assigned or encumbered except as an appurtenance to such property. Each covenant contained in this Agreement constitutes a covenant running with the land. Each Owner of the respective properties covenants and agrees that on conveyance of all or any part of the fee title to such property, the grantee, by accepting such conveyance, will thereby become a new party to, and be bound by, this Agreement. On such acceptance by a grantee, the conveying Owner will thereafter be released from any obligation under this Agreement arising thereafter with respect to the property so conveyed. Each Owner agrees, on written request of the conveying Owner, to execute and deliver any appropriate documents or instruments to evidence such release.

7. Amendment. This Agreement and any provision herein contained may be terminated, extended, modified or amended only with the express written consent of the Owners of the Benefited Property, the City and the Port Authority. No amendment, modification or termination of this Agreement will affect the rights of the holder of any mortgage constituting a lien on any of such property unless such mortgagee consents to the same. No tenant, licensee or other person having only a possessory interest in the improvements on such property will be required to join in execution of or consent of any action by Owners taken pursuant to this Agreement.

8. Successors and Assigns. Except as expressly provided otherwise herein, this Agreement shall inure to the benefit of and be binding on the parties hereto and all present and future Owners of the Benefited Property and their respective successors and assigns. If any respective property is subdivided into two or more ownerships, each obligation arising under this Agreement shall bind only those portions of such property as to which such obligation relates and the Owners thereof, and the other portions of such property and the Owners thereof shall not be burdened by such obligation.

9. Governing Laws. This Agreement will be construed in accordance with the laws of the State of Minnesota.

10. Easements Via Plat. The City has or will be granted additional drainage and utility easements via the plat for Med Tech Park Subdivision 4th Addition. City shall have the obligation to maintain and repair all public utilities located within said drainage and utility easements. The City further agrees to restore all areas to their original condition if disturbed or damaged due to the exercise of any rights granted herein.

IN WITNESS WHEREOF, the parties hereto have executed this instrument.

RED WING PORT AUTHORITY

This 21 day of MAY, 2004

By: Nona J. Nelson

Its.: President

This 21 day of MAY, 2004

By: [Signature]

Its.: Executive Director

MENARD, INC

This 20th day of MAY, 2004

By: [Signature]

Marv Prochaska
Vice President

CITY OF RED WING

This _____ day of _____, 2004

By: _____

Its.: _____

This _____ day of _____, 2004

By: _____

Its.: _____

This _____ day of _____, 2004

By: _____

Its.: _____

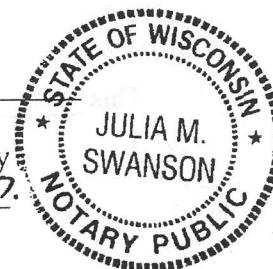
ACKNOWLEDGEMENTS

STATE OF WISCONSIN)
)ss.
COUNTY OF EAU CLAIRE)

On this 20th day of May, 2004, before me a Notary Public within and for this County and State, personally appeared Marv Prochaska to me personally known, who, being by me duly sworn did say that he is the Vice President of Menard, Inc., the corporation named in the foregoing instrument, and that this instrument was signed on behalf of the corporation by authority of its Board of Directors and that Marv Prochaska, Vice President acknowledged this instrument to be the free act and deed of Menard, Inc.

Julia M. Swanson

Notary Public Eau Claire County
My commission expires: 10-8-07



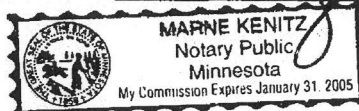
STATE OF Mn)
)ss.
COUNTY OF Goodhue

On this 21 day of MAY, 2004, before me a Notary Public in and for the County and State aforesaid, personally appeared Nona J. Nelson and Myron White who are personally known to me to be the same people whose names are subscribed to the foregoing instrument, and who acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act for the uses and purposes therein set forth.

President
Red Wing Port
Authority

Executive Director

Marne KT
Notary Public _____ County
My Commission: _____



IN WITNESS WHEREOF, the parties hereto have executed this instrument.

RED WING PORT AUTHORITY

This _____ day of _____, 2004

By: _____

Its.: _____

This _____ day of _____, 2004

By: _____

Its.: _____

MENARD, INC.

This _____ day of _____, 2004

By: _____

Marv Prochaska
Vice President

CITY OF RED WING

This 20th day of May, 2004

By: Vern Steffenhagen

Its.: Mayer

This _____ day of _____, 2004

By: Kay Kuhlmann

Its.: Conrail Administrator

This 20th day of May, 2004

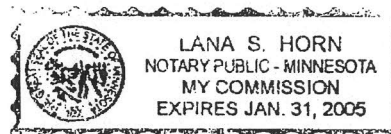
By: Walter J. Peterson

Its.: City Clerk

STATE OF Mn)
)ss.
COUNTY OF Goodhue)

On this 20th day of May, 2004, before me a Notary Public in and for the County and State aforesaid, personally appeared Vern Steffenhagen, Kay Kuhlmann, and Kathy Johnson, who are personally known to me to be the same people whose names are subscribed to the foregoing instrument, and who acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act for the uses and purposes therein set forth.

Lana S. Horn
Notary Public Goodhue County
My Commission: 01-31-05



Drafted by and after recording return to:
Theron J. Berg
Corporate Counsel
Menard, Inc.
4777 Menard Drive
Eau Claire, WI 54703
Phone: (715) 876-2997
Fax: (715) 876-5960

RD PARCEL

Parcel 1:

That part of the northeast quarter (NE 1/4) of the southwest quarter (SW 1/4) of section twenty six (26) in township one hundred thirteen (113) north, of range fifteen (15) west, described as follows:

Beginning at a point 3 chains east of the southwest corner of said northeast quarter (NE 1/4) of the southwest quarter (SW 1/4), running thence east 7.75 chains, thence north 7 degrees east 6.25 chains, thence north 61 1/2 degrees west 7.65 chains to old claim line between Grow and Bronson, thence south 10 degrees west on said line to place of beginning.

The foregoing premises also known and described as Lot 85 according to the plat of Auditors Subdivision of the south three-fourths Section 23, all of Section 26 and the east one-quarter of Section 27, Township 113 North, Range 15 West, Goodhue County, Minnesota, as recorded in Book B of Plats on page 1.

EXCEPT, That part of the Northeast Quarter of the Southwest Quarter of Section 26, Township 113 North, Range 15 West, Goodhue County, Minnesota, described as follows: Commencing at the southwest corner of said Section 26; thence on an assumed bearing of North 88 degrees 47 minutes 57 seconds East, along the south line of the Southwest Quarter of said Section 26, a distance of 1549.65 feet; thence on a bearing of North, a distance of 1724.91 feet to the point of beginning of the land to be described; thence South 77 degrees 39 minutes 19 seconds East, a distance of 152.19 feet; thence North 09 degrees 27 minutes 12 seconds East, a distance of 173.97 feet to the northerly line of the Donald Warwick property as described in Book G-10 of Deeds, page 627, Goodhue County Records Office; thence North 62 degrees 46 minutes 08 seconds West, along said northerly line of the Warwick property, a distance of 178.87 feet to the Grow and Bronson claim line defined as the easterly line of that certain property described in that judgment recorded in Book 35 of Mortgages, page 409, Goodhue County Records Office; thence South 09 degrees 27 minutes 12 seconds West, along said Grow and Bronson claim line, a distance of 219.98 feet to the intersection with a line bearing North 77 degrees 39 minutes 19 seconds West from the point of beginning; thence South 77 degrees 39 minutes 19 seconds East, a distance of 18.36 feet to the point of beginning.

Parcel 2:

About 3 1/2 acres in the northeast quarter (NE 1/4) of the southwest quarter (SW 1/4) of section 26, in township 113 north, range 15 west, described as follows:

Beginning at the southeast corner of said forty acre tract; running thence 51 1/2° west 610 feet; thence north 61 1/2° west 432 feet; thence north 6° east 283 feet; thence north 3° east 212 feet; thence north 9 1/2° west 194 feet to the south side of a bridge; thence west to the center of the public road; thence southwesterly along said road to the northerly line of land formerly owned by Robert Wilson; thence south 61 1/2° east to the northeasterly corner of said Wilson's land; thence south 7° west 412 1/2 feet to the south line of said forty; thence east 605 feet to the point of beginning, except the following described tract:

That part of the NE 1/4 of the SW 1/4 of Section 26, T. 113 N., R. 15 W., described as follows: beginning at a point 1303.55 feet north and 3052.44 feet west of the southeast corner of the SE 1/4 said Section 26, thence N. 89°39'05" E. 579.00 feet on projection of ancient fence, thence N. 51°50'05" W. 610 feet, thence N. 61°50'05" W. 54.38 feet, thence S. 7°13'11" W. 409.38 feet to point of beginning.

For purposes of the description of this exception the East line of the SE 1/4 of said Section 26, T. 113 N., R. 15 W. is assumed to be True North.

Also Except:

That part of the Northeast Quarter of the Southwest Quarter of Section 26, Township 113 North, Range 15 West, described as follows: Beginning at a point 1303.55 feet North and 3052.44 feet West of the Southeast corner of the Southeast Quarter of said Section 26; thence South 07 degrees 13 minutes 11 seconds West to the South line of said Northeast Quarter of the Southwest Quarter; thence Easterly along said South line to the Southeast corner of said Northeast Quarter of the Southwest Quarter; thence Northerly along the East line of said Northeast Quarter of the Southwest Quarter to a point which is on projection of ancient fence having a bearing of North 89 degrees 39 minutes 05 seconds East from the point of beginning; thence South 89 degrees 39 minutes 05 seconds West, on projection of ancient fence, to the point of beginning.

Also Except:

That part of the Northeast Quarter of the Southwest Quarter of Section 26, Township 113 North, Range 15 West, Goodhue County, Minnesota, described as follows:

Commencing at the southeast corner of the Northeast Quarter of the Southwest Quarter of said Section 26; thence North 51 degrees 30 minutes West, a distance of 610 feet to the point of beginning of the land to be described; thence North 61 degrees 30 minutes West, a distance of 432 feet; thence North 06 degrees East, a distance of 283 feet; thence North 03 degrees East, a distance of 212 feet; thence North 09 degrees 30 minutes West, a distance of 194 feet to the south side of the bridge; thence west to the easterly line of Auditor's Lot 83 of the Auditor's Subdivision of the south three-fourths of Section 23, all of Section 26 and the east one-quarter of Section 27, Township 113 North, Range 15, also being the Grow and Brownson Claim Line, as defined as the easterly line of that certain property described in the judgment recorded in Book 35 of Mortgages, page 409, Goodhue County, Recorder's Office; thence southerly, along said easterly line of Lot 83, also being the Grow and Brownson Claim Line, to the northerly line of the Donald Warwick property, as described in G-10 of Deeds, page 627, Goodhue County Recorder's Office; thence southeasterly, to the northeasterly corner of said Warwick property; thence southeasterly to the most northerly corner of Outlot D, Med Tech Park Subdivision, according to the recorded plat thereof; thence northerly, along the northerly extension of the westerly line of said Outlot D, to the intersection with a line bearing South 51 degrees 30 minutes 00 seconds East, from the point of beginning; thence North 51 degrees 30 minutes 00 seconds West, a distance of 27 feet, more or less, to the point of beginning.

Parcel 3:

Also part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 26, Township 113 north, Range 15 West, described as follows:

Beginning at a point 1303.55 feet North and 3052.44 feet west of the southeast corner of the SE $\frac{1}{4}$ said Section 26, thence S. 07°13'11" W. 212.17 feet, thence N. 89°15'05" W. 664.87 feet to the center line of Town Road, thence N 21°36'25" E. on said centerline Town Road 213.04 feet, thence N. 89°39'05" E 613.04 feet on ancient fence line to point of beginning.

All corners are monumented with steel pipe and for the purposes of this description the East line of the SE $\frac{1}{4}$ of said Section 26, Township 113 north, Range 15 West is assumed to be True North.

EXCEPT that part which lies westerly of the easterly line of SIEWERTS BRIARWOOD, according to the recorded plat thereof, on file in the office of the County Recorder, Goodhue County, Minnesota.

PARCEL 4

ADDITION, OUTLOT A AND LOT 1, BLOCK 1, MED TECH PARK SUBDIVISION, THIRD ACCORDING TO THE RECORDED PLAT THEREOF, ON FILE IN THE OFFICES OF THE GOODHUE COUNTY RECORDER, GOODHUE COUNTY, MINNESOTA

~~PARCELS 1, 2, 3, AND 4 TO BE KNOWN AS:~~

~~LOT 1, BLOCK 1 AND LOT 2, BLOCK 1, MED TECH PARK SUBDIVISION 4
ADDITION, CITY OF RED WING, COUNTY OF GOODHUE, AND STATE OF
MINNESOTA~~

EXHIBIT B OF THE AGREEMENT
LEGAL DESCRIPTION OF PORT AUTHORITY PARCEL

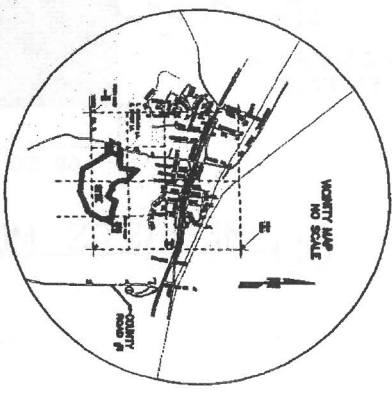
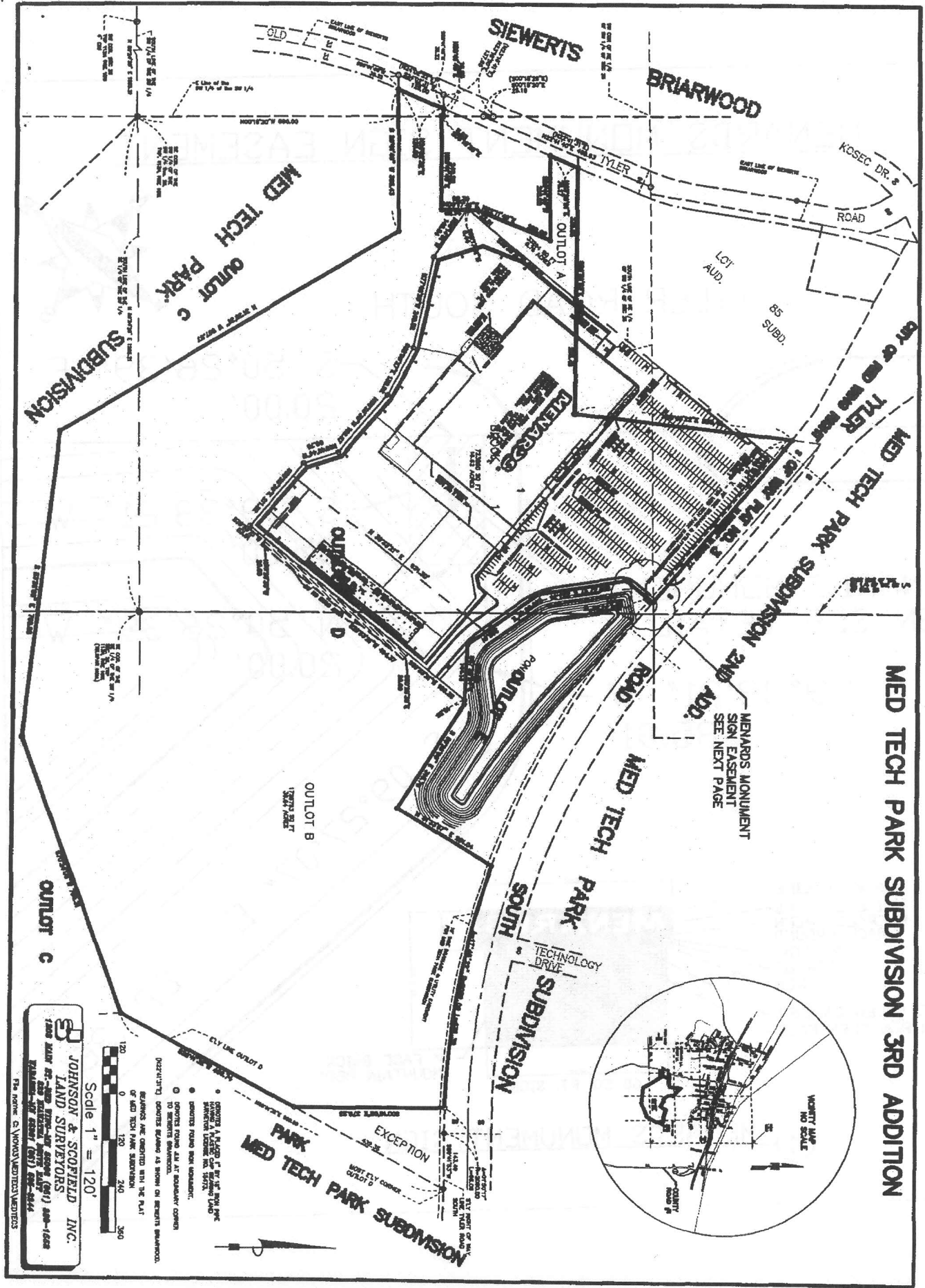
OUTLOT B, MED TECH PARK SUBDIVISION 3RD ADDITION, ACCORDING TO
THE RECORDED PLAT THEREOF, ON FILE IN THE OFFICES OF THE
GOODHUE COUNTY RECORDER, GOODHUE COUNTY, MINNESOTA

EXHIBIT C OF THE AGREEMENT
LEGAL DESCRIPTION OF THE CITY PARCEL

OUTLOT E, MED TECH PARK SUBDIVISION, ACCORDING TO THE RECORDED
PLAT THEREOF, ON FILE IN THE OFFICES OF THE GOODHUE COUNTY
RECORDER, GOODHUE COUNTY, MINNESOTA

EXHIBIT D OF THE AGREEMENT
DEPICTION OF SIGN AND LEGAL DESCRIPTION OF EASEMENT

MED TECH PARK SUBDIVISION 3RD ADDITION



JOHNSON & SCOTFIELD INC.
LAND SURVEYORS
 1400 MAIN ST. SUITE 200
 DALLAS, TEXAS 75201
 PHONE: (214) 766-8444
 FAX: (214) 766-8445

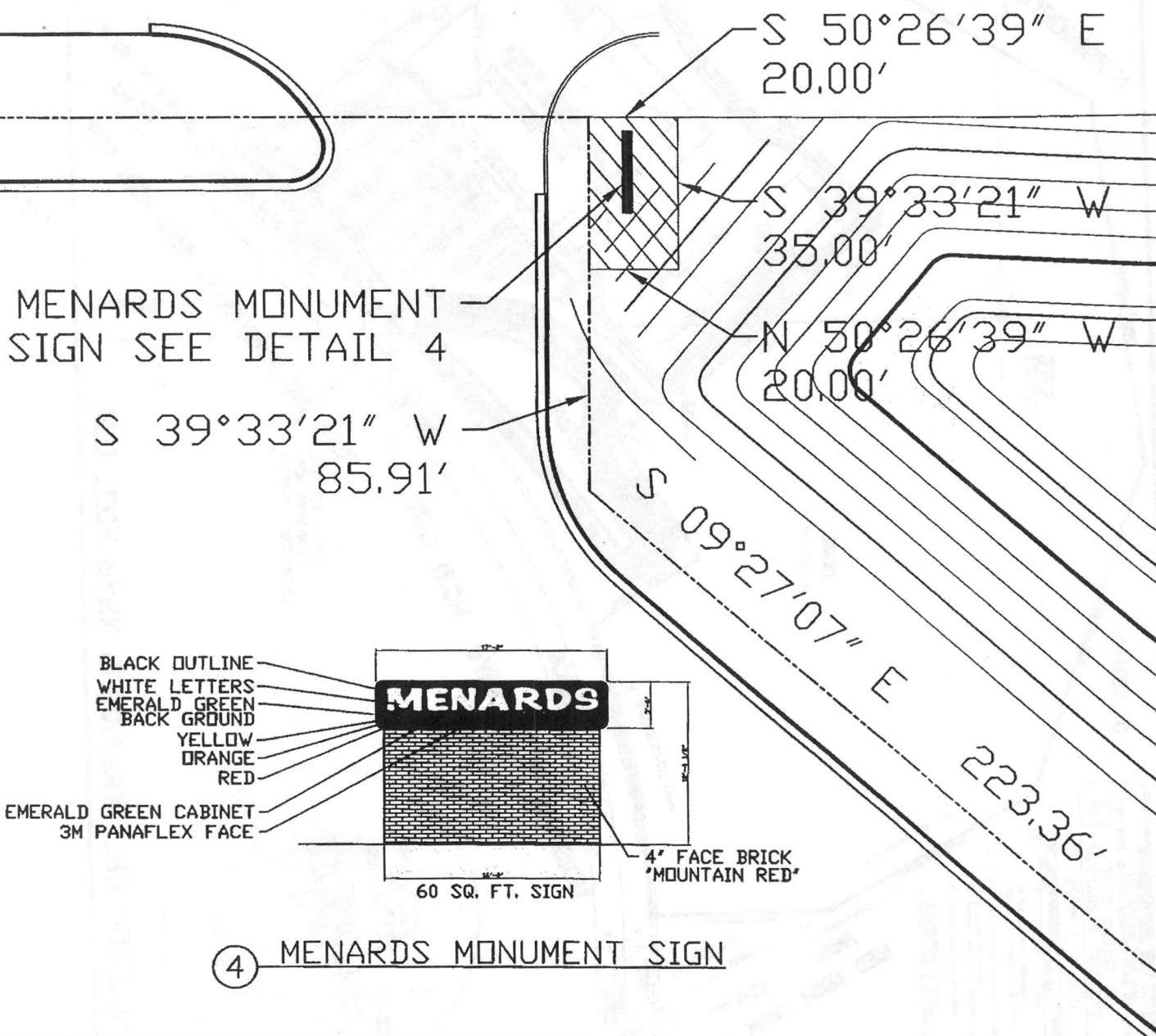
Scale 1" = 120'
 0 120 240 360
 FEET

NOTES:
 1. SEE PLAT FOR DETAILS.
 2. SEE PLAT FOR DETAILS.
 3. SEE PLAT FOR DETAILS.
 4. SEE PLAT FOR DETAILS.
 5. SEE PLAT FOR DETAILS.

MENARDS MONUMENT SIGN EASEMENT



TYLER ROAD SOUTH



PONDING EASEMENT AND MAINTENANCE AGREEMENT

THIS PONDING EASEMENT AND MAINTENANCE AGREEMENT (this "Agreement") is made and entered into as of June 8, 1999 among the CITY OF RED WING, a Minnesota municipal corporation (the "City"), the RED WING PORT AUTHORITY, A DEVELOPMENT AGENCY, a public body corporate and politic ("General Developer"), and FAIRVIEW RED WING HEALTH SERVICES, a Minnesota nonprofit corporation ("Medical Developer").

RECITALS:

A. The City, General Developer and Medical Developer are parties to that certain Development Agreement, dated as of December 14, 1998 (the "Development Agreement").

B. The Development Agreement addresses the need for ponding easements.

C. General Developer is the owner in fee simple of real property situated in Goodhue County, Minnesota and legally described on the attached **Exhibit A** (the "General Developer Property").

D. Medical Developer is the owner in fee simple of the real property situated in Goodhue County, Minnesota and legally described on the attached **Exhibit B** (the "Medical Developer Property").

E. The City intends to construct Tyler Avenue South in the location shown in the Development Agreement.

F. The General Developer intends to convey Outlot B, Med Tech Park Subdivision, Goodhue County, Minnesota ("Outlot B") to the City.

G. The City intends to construct a storm water pond and related ditches, storm sewer pipes and/or spillways (the "Pond") on Outlot B.

H. The parties desire to enter into this Agreement to set forth their agreements regarding the Pond and certain other matters.

AGREEMENT:

NOW, THEREFORE, In consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, General Developer, Medical Developer and the City, on behalf of themselves and their successors and assigns, hereby agree as follows:

1. Definitions. As used in this Agreement, the following terms have the following definitions:

- 1.1 Benefitted Property: Any portion of the Medical Developer Property or the General Developer Property served by the Pond.
- 1.2 Owner: All present and future owners of legal or equitable title to all or any portion of the Benefitted Property and their respective successors and assigns, each of whom is an "Owner".

2. Construction of Pond. As soon hereafter as practicable, General Developer agrees to quit claim Outlot B to the City. The City agrees to construct the Pond on Outlot B in accordance with plans and specifications approved by Medical Developer, which approval shall not be unreasonably withheld. The City shall design the Pond to have sufficient capacity to accommodate storm water runoff from the Medical Developer Property from a 100-year storm, in accordance with generally accepted engineering design standards. The Pond may also accommodate storm water runoff from portions of the balance of the General Developer Property. By undertaking the design and construction of the Pond, the City is not warranting that the Pond will prevent the flooding of the Medical Developer Property. The City agrees to install a culvert or culverts under the new Tyler Road South during the construction of such road, connecting Medical Developer's storm drainage system to Outlot B, according to plans and specifications approved by Medical Developer, which approval shall not be unreasonably withheld. The City agrees to cause the culvert or culverts and the Pond to be finally completed and fully operational on or before November 15, 1999.

3. Grants of Easements. The City hereby grants to Medical Developer, for the benefit of the Medical Developer Property, a perpetual, nonexclusive easement for storm water drainage purposes through the culvert or culverts described in Section 2 above. General Developer hereby grants to Medical Developer, for the benefit of the Medical Developer Property, a perpetual, nonexclusive easement for storm water drainage and ponding purposes over, under and across Outlot B. General Developer hereby declares, for the benefit of the balance of the General Developer Property, a perpetual, nonexclusive easement for storm water drainage and ponding purposes over, under and across Outlot B. Neither the City nor General Developer shall fill, reduce or otherwise make any alterations to the culvert or culverts, Outlot B or the Pond that materially and adversely affects the easement rights granted hereunder, or consent to the same.

4. Maintenance. The City shall perform all necessary and appropriate maintenance and repairs to the culvert or culverts under Tyler Road South and the Pond, at no cost to Medical Developer, except future special assessments for future capital projects which are normally specially assessed by the City. The City shall specially assess the cost of the initial construction of the Pond to the Benefitted Property, based on the square footage of land area of

each individually owned property served by the Pond. The City shall follow its normal procedures in levying the special assessments for the Pond.

5. Legal Effect. Each of the easements and rights created by this Agreement are perpetual and are appurtenant to the respective real properties, and may not be transferred, assigned or encumbered except as an appurtenance to such property. Each covenant contained in this Agreement constitutes a covenant running with the land. Each Owner of the respective properties covenants and agrees that on conveyance of all or any part of the fee title to such property, the grantee, by accepting such conveyance, will thereby become a new party to, and be bound by, this Agreement. On such acceptance by a grantee, the conveying Owner will thereafter be released from any obligation under this Agreement arising thereafter with respect to the property so conveyed. Each Owner agrees, on written request of the conveying Owner, to execute and deliver any appropriate documents or instruments to evidence such release.

6. Amendment. This Agreement and any provision herein contained may be terminated, extended, modified or amended only with the express written consent of the Owners of the Benefitted Property and the City. No amendment, modification or termination of this Agreement will affect the rights of the holder of any mortgage constituting a lien on any of such property unless such mortgagee consents to the same. No tenant, licensee or other person having only a possessory interest in the improvements on such property will be required to join in execution of or consent to any action by the from time to time Owners taken pursuant to this Agreement.

7. Successors and Assigns. Except as expressly provided otherwise herein, this Agreement shall inure to the benefit of and be binding on the parties hereto and all present and future Owners of the Benefitted Property and their respective successors and assigns. If any respective property is subdivided into two or more ownerships, each obligation arising under this Agreement shall bind only those portions of such property as to which such obligation relates and the Owners thereof, and the other portions of such property and the Owners thereof shall not be burdened by such obligation.

8. Governing Laws. This Agreement will be construed in accordance with the laws of the State of Minnesota.

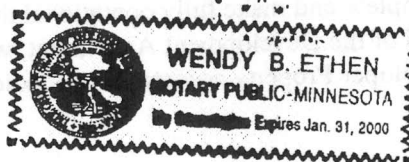
9. Development Agreement. Notwithstanding anything contained in the Development Agreement to the contrary, the parties agree that no ponding easements will be required by General Developer on the Medical Developer Property. In addition, the City agrees to finally complete and make fully operational the Water Pressure/Volume System described in Section 10.25 of the Development Agreement, with a line stubbed to a location adjacent to the Medical Developer Property acceptable to Medical Developer, on or before November 15, 2000.

CITY OF RED WING

By: Kay Kuhlmann
Its City Council Administrator

The foregoing instrument was acknowledged before me this 8th day of June, 1999, by Renee C. Cyr, Kathy Seymour Johnson and Kay Kuhlman, the Mayor, City Clerk and City Council Administrator of the City of Red Wing, a Minnesota municipal corporation, on behalf of said municipal corporation.

Notary Public



FAIRVIEW RED WING HEALTH
SERVICES

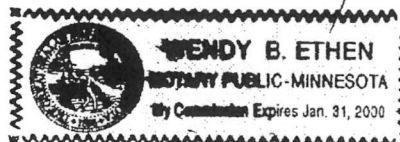
By: *Adina*
Its: PRESIDENT/CEO

By: _____
Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF Goodhue)

The foregoing instrument was acknowledged before me this 8th day of June,
1999, by Scott and Wardelman, the President/CEO and
_____ of Fairview Red Wing Health Services, a Minnesota nonprofit corporation, on
behalf of the corporation.

Wendy B. Ethen
Notary Public



THIS DOCUMENT WAS DRAFTED BY:

DORSEY & WHITNEY LLP (MEH)
Pillsbury Center South
220 South Sixth Street
Minneapolis, Minnesota 55402

EXHIBIT A
PONDING AGREEMENT

LEGAL DESCRIPTION

Lots 1, 2, 3, 4, 5, 6, 7, and 8, Block 1; Lots 1 and 2, Block 3; Lots 1 and 3, Block 4; and Outlots A, B, C, D, E and F; Med Tech Park Subdivision, according to the plat thereof on file and of record in the office of the Goodhue County Recorder.

EXHIBIT B
PONDING AGREEMENT

LEGAL DESCRIPTION

Lot 9, Block 1; Lot 1, Block 2; and Lot 2, Block 4; Med Tech Park Subdivision, according to the plat thereof on file and of record in the office of the Goodhue County Recorder.

FILED FOR RECORD THIS 9th day of June, 1999, at 11:00 o'clock A. M.

DOC #: A 504747

Recorded
MAY 24, 2004 AT 08:00AMSigned: JEAN M. DANKERS
GOODHUE COUNTY RECORDER

Fee Amount: \$20.00



RESTRICTIVE COVENANT

THIS RESTRICTIVE COVENANT (hereinafter referred to as "RESTRICTIVE COVENANT"), is made this 21 day of MAY, 2004, by and between the Red Wing Port Authority (hereinafter referred to as "Port Authority"), a Development Agency, a public body corporate and politic, with offices located 419 Bush Street, Red Wing, Minnesota 55066 and Menard, Inc. (hereinafter referred to as "Menard"), a Wisconsin corporation, with offices located at 4777 Menard Drive, Eau Claire, Wisconsin, 54703.

RECITALS

WHEREAS, Menard is the owner of a parcel of land, located in the City of Red Wing, County of Goodhue, State of Minnesota, more particularly described on the attached Exhibit A (hereinafter referred to as "Menard Parcel");

WHEREAS, Port Authority is the owner of certain parcel of land located in the City of Red Wing, County of Goodhue, State of Minnesota, more particularly described on the attached Exhibit B (hereinafter referred to as the "Port Authority Parcel");

WHEREAS, Menard has acquired the Menard Parcel from the Port Authority concurrently with the execution of this Restrictive Covenant; and

WHEREAS, it is the intent of Menard to construct certain improvements on the Menard Parcel including a Menards Home Improvement Center; and

WHEREAS, the Port Authority has agreed, pursuant to the Purchase and Sale Agreement last executed on August 5, 2003, by and between Menard and the Port Authority, to restrict the use of its remaining property in the Med Tech Park Subdivision.

NOW THEREFORE, in consideration of ten dollars, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DECLARATION OF RESTRICTIVE COVENANT

1.01 Port Authority does for itself, its successors and assigns, declare that:

A. The Port Authority Parcel shall not be used for the operation of a business in excess of 20,000 square feet specializing in home improvements or as a home center business similar to Menard's business, including, for example, a Home Depot, Lowe's, or Sears Hardware.

B. In the event of any violation or threatened violation of this restriction, Menard, or subsequent owner or occupant of the Menard Parcel shall have the right to enjoin such violation or threatened violation and enforce the restriction herein in a court of competent jurisdiction.

C. This restriction is made for the direct benefit of Menard and the Menard Parcel and creates an equitable servitude upon the Port Authority land which shall run with the land. This restriction may only be released by the owner of the Menard Parcel by the recording of a written release in the Office of the Recorder for Goodhue County.

ARTICLE II
MISCELLANEOUS

2.01 Counterparts. This Restrictive Covenant may be executed in two or more duplicate counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

2.02 Partial Invalidity. If any provisions or portions of this Restrictive Covenant, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Restrictive Covenant or the application of such provision, or portion thereof, to any other persons or circumstances shall be valid and enforceable to the fullest extent permitted by law.

2.03 Applicable Law. This Restrictive Covenant shall be deemed to have been made in Goodhue County, Minnesota, and shall be construed in accordance with the laws of the State of Minnesota.

2.04 Notice. Any notice, demand, request or other communication which may or shall be given or served by the Port Authority to or on Menard, or by Menard to or on the Port Authority, shall be deemed to have been given or served on the date the same is deposited in the United States Mail, registered or certified, return receipt requested, postage prepaid, sent by facsimile transmission or given to a nationally recognized overnight courier service for next business day delivery and addressed as follows:

If to Menard:

Menard, Inc.
Attn: Vice President/Real Estate
4777 Menard Drive
Eau Claire, WI 54703
Phone: (715) 876-2997
Fax: (715) 876-5960

If to Port Authority:

Red Wing Port Authority
Attn: Executive Director
419 Bush Street, P.O. Box 244
Red Wing, Minnesota 55066
Phone: 651-385-3697
Fax: 651-385-4782

The above addresses may be changed at any time by the parties by notice given in the manner provided above.

2.05 All of the covenants, conditions and restrictions set forth in this Restrictive Covenant to be performed or observed by either party are intended to be and shall be construed as covenants running with the land, and shall binding upon, inure to the benefit of and be enforceable by the parties and all subsequent owners of their respective parcels or any part thereof.

2.06 No agreement shall be effective to add to, change, modify, waive or discharge this Restrictive Covenant, in whole or in part, unless such agreement is in writing and signed by both parties.

2.07 The section and any subsection headings herein are for convenience and reference only and in no way define or limit the scope and content of this Restrictive Covenant or in any way affect its provisions.

2.08 Nothing contained in this Restrictive Covenant will be deemed to be gift or dedication of any portion of the parcels to the general public or for the general public for any public purpose whatsoever; it being the intention of Menard and the Port Authority that this Restrictive Covenant will be limited to and for the purposes expressed herein.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this instrument.

This 21 day of MAY, 2004

RED WING PORT AUTHORITY

By: Nona J. Nelson

Its.: President

This 21 day of MAY, 2004

By: [Signature]

Its.: EXECUTIVE DIRECTOR

This 20th day of MAY, 2004

MENARD, INC.

By: [Signature]

Marv Prochaska
Vice President

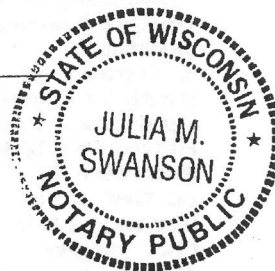
ACKNOWLEDGEMENTS

STATE OF WISCONSIN)
)ss.
COUNTY OF EAU CLAIRE)

On this 20th day of May, 2004, before me a Notary Public within and for this County and State, personally appeared Marv Prochaska to me personally known, who, being by me duly sworn did say that he is the Vice President of Menard, Inc., the corporation named in the foregoing instrument, and that this instrument was signed on behalf of the corporation by authority of its Board of Directors and that Marv Prochaska, Vice President acknowledged this instrument to be the free act and deed of Menard, Inc.

Julia M. Swanson

Notary Public Eau Claire County
My commission expires: 10-8-07.



STATE OF Mn)
)ss.
COUNTY OF Goodhue

On this 21 day of MAY, 2004, before me a Notary Public in and for the County and State aforesaid, personally appeared Nona J. Nelson and Myron White, who are personally known to me to be the same people whose names are subscribed to the foregoing instrument, and who acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act for the uses and purposes therein set forth.

* President + Exec Director
Red Wing Port Auth

Marne Kitz
Notary Public _____ County
My Commission: _____



Drafted by and after recording return to:
Theron J. Berg
Corporate Counsel
Menard, Inc.
4777 Menard Drive
Eau Claire, WI 54703

Parcel 1:

That part of the northeast quarter (NE 1/4) of the southwest quarter (SW 1/4) of section twenty six (26) in township one hundred thirteen (113) north, of range fifteen (15) west, described as follows:

Beginning at a point 3 chains east of the southwest corner of said northeast quarter (NE 1/4) of the southwest quarter (SW 1/4), running thence east 7.75 chains, thence north 7 degrees east 6.25 chains, thence north 61 1/2 degrees west 7.65 chains to old claim line between Grow and Bronson, thence south 10 degrees west on said line to place of beginning.

The foregoing premises also known and described as Lot 85 according to the plat of Auditors Subdivision of the south three-fourths Section 23, all of Section 26 and the east one-quarter of Section 27, Township 113 North, Range 15 West, Goodhue County, Minnesota, as recorded in Book B of Plats on page 1.

EXCEPT, That part of the Northeast Quarter of the Southwest Quarter of Section 26, Township 113 North, Range 15 West, Goodhue County, Minnesota, described as follows: Commencing at the southwest corner of said Section 26; thence on an assumed bearing of North 88 degrees 47 minutes 57 seconds East, along the south line of the Southwest Quarter of said Section 26, a distance of 1549.65 feet; thence on a bearing of North, a distance of 1724.91 feet to the point of beginning of the land to be described; thence South 77 degrees 39 minutes 19 seconds East, a distance of 152.19 feet; thence North 09 degrees 27 minutes 12 seconds East, a distance of 173.97 feet to the northerly line of the Donald Warwick property as described in Book G-10 of Deeds, page 627, Goodhue County Records Office; thence North 62 degrees 46 minutes 08 seconds West, along said northerly line of the Warwick property, a distance of 178.87 feet to the Grow and Brownson claim line defined as the easterly line of that certain property described in that judgment recorded in Book 35 of Mortgages, page 409, Goodhue County Records Office; thence South 09 degrees 27 minutes 12 seconds West, along said Grow and Brownson claim line, a distance of 219.98 feet to the intersection with a line bearing North 77 degrees 39 minutes 19 seconds West from the point of beginning; thence South 77 degrees 39 minutes 19 seconds East, a distance of 18.36 feet to the point of beginning.

Parcel 2:

About 3 1/2 acres in the northeast quarter (NE 1/4) of the southwest quarter (SW 1/4) of section 26, in township 113 north, range 15 west, described as follows:

Beginning at the southeast corner of said forty acre tract; running thence 51 1/2° west 610 feet; thence north 61 1/2° west 432 feet; thence north 6° east 283 feet; thence north 3° east 212 feet; thence north 9 1/2° west 194 feet to the south side of a bridge; thence west to the center of the public road; thence southwesterly along said road to the northerly line of land formerly owned by Robert Wilson; thence south 61 1/2° east to the northeasterly corner of said Wilson's land; thence south 7° west 412 1/2 feet to the south line of said forty; thence east 605 feet to the point of beginning, except the following described tract:

That part of the NE 1/4 of the SW 1/4 of Section 26, T. 113 N., R. 15 W., described as follows: beginning at a point 1303.55 feet north and 3052.44 feet west of the southeast corner of the SE 1/4 said Section 26, thence N. 89°39'05" E. 579.00 feet on projection of ancient fence, thence N. 51°50'05" W. 610 feet, thence N. 61°50'05" W. 54.38 feet, thence S. 7°13'11" W. 409.38 feet to point of beginning.

For purposes of the description of this exception the East line of the SE 1/4 of said Section 26, T. 113 N., R 15 W. is assumed to be True North.

Also Except:

That part of the Northeast Quarter of the Southwest Quarter of Section 26, Township 113 North, Range 15 West, described as follows: Beginning at a point 1303.55 feet North and 3052.44 feet West of the Southeast corner of the Southeast Quarter of said Section 26; thence South 07 degrees 13 minutes 11 seconds West to the South line of said Northeast Quarter of the Southwest Quarter; thence Easterly along said South line to the Southeast corner of said Northeast Quarter of the Southwest Quarter; thence Northerly along the East line of said Northeast Quarter of the Southwest Quarter to a point which is on projection of ancient fence having a bearing of North 89 degrees 39 minutes 05 seconds East from the point of beginning; thence South 89 degrees 39 minutes 05 seconds West, on projection of ancient fence, to the point of beginning.

Also Except:

That part of the Northeast Quarter of the Southwest Quarter of Section 26, Township 113 North, Range 15 West, Goodhue County, Minnesota, described as follows:

Commencing at the southeast corner of the Northeast Quarter of the Southwest Quarter of said Section 26; thence North 51 degrees 30 minutes West, a distance of 610 feet to the point of beginning of the land to be described; thence North 61 degrees 30 minutes West, a distance of 432 feet; thence North 06 degrees East, a distance of 283 feet; thence North 03 degrees East, a distance of 212 feet; thence North 09 degrees 30 minutes West, a distance of 194 feet to the south side of the bridge; thence west to the easterly line of Auditor's Lot 83 of the Auditor's Subdivision of the south three-fourths of Section 23, all of Section 26 and the east one-quarter of Section 27, Township 113 North, Range 15, also being the Grow and Brownson Claim Line, as defined as the easterly line of that certain property described in the judgment recorded in Book 35 of Mortgages, page 409, Goodhue County, Recorder's Office; thence southerly, along said easterly line of Lot 83, also being the Grow and Brownson Claim Line, to the northerly line of the Donald Warwick property, as described in G-10 of Deeds, page 627, Goodhue County Recorder's Office; thence southeasterly, to the northeasterly corner of said Warwick property; thence southeasterly to the most northerly corner of Outlot D, Med Tech Park Subdivision, according to the recorded plat thereof; thence northerly, along the northerly extension of the westerly line of said Outlot D, to the intersection with a line bearing South 51 degrees 30 minutes 00 seconds East, from the point of beginning; thence North 51 degrees 30 minutes 00 seconds West, a distance of 27 feet, more or less, to the point of beginning.

Parcel 3:

Also part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 26, Township 113 north, Range 15 West, described as follows:

Beginning at a point 1303.55 feet North and 3052.44 feet west of the southeast corner of the SE $\frac{1}{4}$ said Section 26, thence S. 07°13'11" W. 212.17 feet, thence N. 89°15'05" W. 664.87 feet to the center line of Town Road, thence N 21°36'25" E. on said centerline Town Road 213.04 feet, thence N. 89°39'05" E 613.04 feet on ancient fence line to point of beginning.

All corners are monumented with steel pipe and for the purposes of this description the East line of the SE $\frac{1}{4}$ of said Section 26, Township 113 north, Range 15 West is assumed to be True North.

EXCEPT that part which lies westerly of the easterly line of SIEWERTS BRIARWOOD, according to the recorded plat thereof, on file in the office of the County Recorder, Goodhue County, Minnesota.

PARCEL 4

ADDITION,

OUTLOT A AND LOT 1, BLOCK 1, MED TECH PARK SUBDIVISION, THIRD ACCORDING TO THE RECORDED PLAT THEREOF, ON FILE IN THE OFFICES OF THE GOODHUE COUNTY RECORDER, GOODHUE COUNTY, MINNESOTA

~~PARCELS 1, 2, 3, AND 4 TO BE KNOWN AS:~~

~~LOT 1, BLOCK 1 AND LOT 2, BLOCK 1, MED TECH PARK SUBDIVISION, 3RD ADDITION, CITY OF RED WING, COUNTY OF GOODHUE, AND STATE OF MINNESOTA~~

EXHIBIT B OF THE RESTRICTIVE COVENANT
LEGAL DESCRIPTION OF PORT AUTHORITY PARCEL

OUTLOT B, MED TECH PARK SUBDIVISION 3RD ADDITION, ACCORDING TO THE RECORDED PLAT THEREOF, ON FILE IN THE OFFICES OF THE GOODHUE COUNTY RECORDER, GOODHUE COUNTY, MINNESOTA.

LOT 2, BLOCK1, MED TECH PARK SUBDIVISION 2ND ADDITION, ACCORDING TO THE RECORDED PLAT THEREOF, ON FILE IN THE OFFICES OF THE GOODHUE COUNTY RECORDER, GOODHUE COUNTY, MINNESOTA.

LOTS 2 AND 3, BLOCK 4, MED TECH PARK SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF, ON FILE IN THE OFFICES OF THE GOODHUE COUNTY RECORDER, GOODHUE COUNTY, MINNESOTA.

LOT 2, BLOCK1, MED TECH PARK SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF, ON FILE IN THE OFFICES OF THE GOODHUE COUNTY RECORDER, GOODHUE COUNTY, MINNESOTA.

OUTLOTS C AND F, MED TECH PARK SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF, ON FILE IN THE OFFICES OF THE GOODHUE COUNTY RECORDER, GOODHUE COUNTY, MINNESOTA.